

or use of
land.

- (a) that any use of land should be discontinued; or
 - (b) that any conditions should be imposed on the continuance thereof; or
 - (c) that any building or works should be altered or removed;
- the Authority may, by notice served on the owner,
- (i) require the discontinuance of that use; or
 - (ii) impose such conditions, as may be specified in the notice, on the continuance thereof; or
 - (iii) require such steps, as may be specified in the notice to be taken for the alteration or removal of any building or works, as the case may be, within such period, being not less than one month, as may be specified therein, after the service of the notice.

(2) Any person aggrieved by such notice, may within the said period and in the manner prescribed, appeal to the authority as may be prescribed.

(3) If an appeal is filed under sub-section (2), the provisions of clause (a) of sub-section (3) and sub-section (4) of section 51 shall apply, with such modifications as may be necessary.

(4) If any person :-

- (a) has suffered damage in consequence of the compliance with the notice, by the depreciation of any interest in the land to which he is entitled or by being disturbed in his enjoyment of the land, or
- (b) has carried out any work in compliance with the notice, and claims from the authority within the time and in the manner prescribed, compensation in respect of that damage, or of any expenses reasonably incurred by him for complying with the notice, the provisions of sub-sections (2) and (3) of section 49 shall apply with such modifications as may be necessary.

(5) If any person interested in the land in respect of which a notice is issued under this section, claims that by reason of the compliance with the notice, the land will become incapable of reasonably beneficial use, he may within the period specified in the notice or within such period after the disposal of the appeal, if any, filed under sub-section (2) and in the manner prescribed, serve on the Government, an acquisition notice requiring his interest in the land to be acquired.

(6) When a notice is served under sub-section (5), the provisions of sub-section (2) to (5) of section 48 shall apply with such modifications as may be necessary.

Interim provision pending preparation of plan.

55. Where the Authority in exercise of its functions and powers with respect to any area under it, is required to have regard to the provisions of a plan before such plan has become operative, the Authority shall have regard to the provisions which in its opinion will be required to be included for securing the proper planning of the concerned area.

Over-riding effect of this Act.

56. Notwithstanding anything contained in the Sikkim Municipalities Act, 1995 or any other law relating to municipalities and municipal corporations contrary to the provisions contained in this Act, the provisions of this Act shall have an over-riding effect over all such laws.

CHAPTER - VIII

DEVELOPMENT SCHEMES

Power of the 57. (1) Subject to the provisions of this Act and rules and regulations made

Authority to engage consultants.

thereunder, the Authority may undertake development in any area under its jurisdiction by framing and executing development schemes.

(2) Notwithstanding anything contained in sub-section(1), it shall be lawful for the Authority to undertake development in any area outside its jurisdiction for the purpose of providing amenities and utilities which are wholly or partly beneficial to the residents of the area under its jurisdiction.

Publication of the development scheme and its approval.

58. (1) A development scheme may be prepared for making provision for all any of the following matters namely :

- (a) acquisition of land by purchase, lease or otherwise and to erect thereon such buildings or to carry out such operations as may be necessary for the purposes of carrying on its functions ;
- (b) establishment of a new town;
- (c) establishment of industries, industrial estates, flatted factories, service industries;
- (d) establishment of commercial centres, including specialised markets, wholesale trade centres and mandies;
- (e) establishment of tourist centres and tourism related infrastructure;
- (f) development and landscaping of open spaces, recreational grounds, parks, Zoological and botanical gardens, public assembly grounds and social forestry;
- (g) conservation of ecologically sensitive areas and prevention of injury or contamination of rivers, water bodies and sources of water supply;
- (h) preservation and protection of heritage sites and buildings, objects of historical importance or natural beauty and of buildings actually used for religious purposes;
- (i) control of floods and air and water pollution;
- (j) housing schemes for different income groups including housing for economically weaker sections of the society;
- (k) construction and maintenance of rest houses, night shelter, infirmaries, homes for destitutes, children, disabled, handicapped, senior citizens, etc.;
- (l) redevelopment and renewal of blighted areas;
- (m) resettlement, rehabilitation and upgradation of slum areas;
- (n) provision of health care, educational, cultural, religious and recreational facilities;
- (o) provision of water supply, electricity and gas; disposal of sewage, solid waste and refuse and manufacture of its bye-products ;
- (p) provision of sanitary arrangements including construction of drains and general conservancy, public conveniences, etc.;
- (q) construction, reconstruction, alteration, improvement and maintenance of public roads and streets, bridges, parking lots, transport terminals including bus depots, airports, bus bays and stops, street lighting and avenue plantation;
- (r) provision of public transportation including mass transportation by rail or road or ropeway;
- (s) provision of communication facilities;
- (t) provision for burial and cremation grounds;
- (u) slaughter houses;
- (v) closure or demolition of dwellings and portions of dwellings unfit for human habitation;
- (w) demolition of obstructive buildings or obstructive portions of buildings; and

(x) such other matters not inconsistent with the objects of this Act, as may be considered necessary.

(2) Every development scheme shall contain details, as far as may be applicable, in respect of :

- (a) land assembly over which the development scheme is to be implemented;
- (b) layout plan and other relevant drawings and details including, if necessary, the imposition of conditions and restrictions in regard to the open space to be maintained about buildings, the percentage of building area for a plot, the number, height and character of buildings allowed in specific areas, the purposes for which buildings or specified areas may or may not be appropriated, the sub-division of plots, the discontinuance of objectionable uses of land in any area in reasonable periods, parking space and loading and unloading space for any building and the size of projections and advertisement signs and hoardings;
- (c) total estimated cost, sources of funding and cost recovery statement;
- (d) manner of disposal of assets, if any;
- (e) management and maintenance mechanism; and
- (f) any other matter considered necessary.

(3) The Authority may, on such terms and conditions as may be agreed upon, undertake formulation and execution of any developmental project anywhere on behalf of the local authority, body corporate, co-operative society, or a department of the State or the Central Government:

Provided that permission for such development has been obtained under the provisions of Chapter VII of this Act by the concerned local authority, body corporate or co-operative society, as the case may be, the department of the State or the Central Government.

(4) No development scheme shall be framed by the Authority and no project shall be formulated by any other person or body including departments of Central and State Governments unless they are in conformity with the provisions of a plan approved under this Act.

Power of the Authority to engage consultants.

59. The Authority may, for framing and executing a development scheme, engage any consultant on such terms and conditions as may be agreed upon between it and the consultant.

Publication of the development scheme and its approval.

60. (1) As soon as may be, after a development scheme has been formulated, the authority shall publish it in at least one local newspaper, a notice of preparation of the development scheme and the place or the places where copies of the same may be inspected, inviting objections and suggestion in writing from the public to be filed within thirty days from the date of publication of such notice in the newspaper. The notice shall also state the name of the place or places where a copy of the development scheme shall be available for inspection by the public during the office hours :

Provided that no such notice under this sub-section shall be required where the development scheme is within the framework of the approved development plan of a development area.

(2) After the expiry of the period allowed under sub-section (1) for filing objections and suggestions, the Authority shall consider all the objections and suggestions received and shall after allowing reasonable opportunity of being heard,

to any person who has made a request of being so heard, make such modifications in the development scheme as it considers proper within a period of sixty days of the date of expiry of the notice period allowed under sub-section (1). and shall approve the development scheme.

(3) Immediately after the approval of the development scheme by the Authority, it shall notify in Official Gazette and publish a notice, in at least one local newspaper, of the approval of the development scheme mentioning the place or places and the time at which the scheme shall be open to inspection by the public.

Power of the Authority to set-up functional agencies.

61. (1) The Authority may, with the prior approval of the Government, set-up functional agencies for performance of such specific functions, not inconsistent with the objects of this Act, in such cases where it considers appropriate that it would be in public interest and would effect economy and efficiency in the performance of the functions assigned to it.

(2) The composition, management and the procedures of the aforesaid agencies to be set-up under sub-section (1) shall be such as may be prescribed.

Auction of Floor Area Ratio.

62. (1) If the Authority is satisfied that in a particular locality, augmentation of infrastructure, particularly relating to transportation, has occurred to such an extent that there is a scope for permitting additional built-up space by way of additional Floor Area Ratio (FAR) or Floor Space Index (FSI) over and above the permissible FAR or FSI in the area, it may prepare, with the approval of the Government, a scheme identifying the specific area where such additional built-up space can be permitted by way of auction and specifying the applicable development control norms.

(2) The scheme prepared under sub-section (1) shall qualify the total additional built-up space to be permitted and maximum spot Floor Area Ratio or Floor Space Index to be allowed by auction. Thereupon, the Authority, shall auction the aforesaid additional built-up space in the manner prescribed :

Provided that no auction shall take place unless augmentation of infrastructure and services mentioned in sub-section (1) has become fully operational.

CHAPTER - IX

ACQUISITION, ASSEMBLY AND DISPOSAL OF LAND

Power to acquire land under the Land Acquisition Act, 1894.

63. (1) Any land required, reserved or designated in a perspective plan, a development plan, or an annual plan, or a development scheme shall be deemed to be land needed for a public purpose within the meaning of the Land Acquisition Act, 1894 (Central Act 1 of 1894) and may be acquired by the Government on request by the Authority.

(2) Where any land has been acquired by the Government under sub-section (1), it may after it has taken possession of the land, transfer the land to the Authority for the the purpose for which the land has been acquired on payment by the Authority of the compensation awarded under the Act and of the charges incurred by the Government in connection with the acquisition.

Special provision for invocation of section 4 of Land Acquisition

64. (1) The notification for approval of:
(a) the regional development plan under section 18;
(b) the development plan of the development area under sub-section (10) of section 38; and
(c) the development scheme under sub-section (3) of section 60

Act, 1894 in certain cases. shall, notwithstanding anything contained in the Land Acquisition Act, 1894, be deemed to be a declaration duly made under section 4 of the said Act.

Acquisition of property by the Authority. 65. The Authority may acquire any movable or immovable property by purchase, exchange, gift, lease, mortgage, or by any other means permissible under any law for the time being in force.

Transfer of Government land to the Authority. 66. The Government may, by order and on such terms and conditions as may be agreed upon between the Government and the Authority, place at the disposal of the Authority any developed or undeveloped Government land situated within the jurisdiction of such Authority for the purpose of development in accordance with the provisions of this Act.

Acquisition of land by way of negotiated settlement. 67. The Authority may acquire land by agreement by paying such amount as may be arrived at through negotiated settlement in such manner as may be prescribed under regulations.

Disposal of land and other property by the Authority. 68. The disposal of any land acquired by the Government and transferred to the Authority under section 63 or any land transferred to the Authority under section 63 or any land transferred to it under sections 65, 66, or 67 or any other land with or without carrying out development thereon, or any other immovable property belonging to the Authority, shall be done in accordance with the rules made for the purpose in this behalf.

CHAPTER - X

LEVY, ASSESSMENT AND RECOVERY OF DEVELOPMENT CHARGE

Levy of development charge. 69. (1) Subject to the provisions of this Act and the rules made thereunder, and with the previous sanction of the Government, every Authority shall, by notification published in the Official Gazette, levy a charge (hereinafter called the development charge) on the carrying out of any development or the institution or change of use of land for which permission is required to be obtained under Chapter VII of this Act, in the whole or any part of the development area, at the rates specified in section 70: Provided that the rates may be different for different parts of the development area.

(2) The development charge shall be leviable on any person who undertakes or carries out such development and institutes or changes any such use.

(3) Notwithstanding anything contained in sub-section (1) and (2), no development charge shall be levied on development or institution of, change of use of any land vested in, or under the control or possession of the Central Government, the State Government or any local authority.

(4) The Government may, by rules, provide for exemption from the levy of development charge, any development, institution or change of any use of any land specified in the rules.

Rates of development charge. 70. (1) For the purpose of assessing the development charge, the use of land and building shall be classified under the following categories:
(a) agricultural,
(b) residential,

- (c) industrial
- (d) commercial, and
- (e) miscellaneous.

(2) In classifying the use of land and building under any of the categories mentioned in sub-section (1), the predominant purpose for which such land and building is used shall be the main basis for such classification :

Provided that where land appurtenant to a building is used for any purpose independent of the building, development charge may be levied separately for such use also.

(3) The actual charges may vary from one town to another and within the town from one area to another depending on its development and institution or change of use.

(4) The development charge shall not exceed:-

(a) for the institution of use , -

- | | |
|--------------------|-------------------|
| (i) for residence | Rs.10/- sq.mtr. |
| (ii) for industry | Rs. 50/- sq.mtr. |
| (iii) for commerce | Rs. 200/- sq.mtr. |

(b) for change of use , -

- | | |
|------------------------------------|-------------------|
| (i) from agriculture to residence | Rs. 15/- sq.mtr. |
| (ii) from agriculture to industry | Rs. 55/- sq.mtr. |
| (iii) from agriculture to commerce | Rs. 205/- sq.mtr. |
| (iv) from residence to industry | Rs. 40/- sq.mtr. |
| (v) from residence to commerce | Rs.190/-sq.mtr. |
| (vi) from industry to residence | Rs. 40/- sq.mtr. |
| (vii) from industry to commerce | Rs. 150/-sq.mtr. |

*Assessment
and recovery
of develop-
ment charge.*

71. (1) Any person who intends to carry out any development, or to institute, or change any use of any land for which permission under Chapter VII is necessary, whether he has applied for such permission or not or who has commenced the carrying out of any such development or has carried out such development or instituted or changed any use, shall apply to the Authority within such time and in such manner as may be prescribed for the assessment of development charge payable in respect thereof.

(2) The Authority shall, on such application being made, or if no such application is made, after serving a notice on the person liable for development charge, determine in the manner specified in sub-section (3) and (4), the development charge, if any, is leviable in respect of that development or use.

(3) The Town Planning Member shall, after giving a reasonable opportunity of being heard to the person who has made an application under sub-section (1) or who has been served with a notice under sub-section (2) make a report to the Authority.

(4) After taking into consideration the report of the Town Planning Member made under sub-section (3), the Authority shall assess the amount of development charge by an order :

Provided that

(a) where permission under Chapter VII has not been granted for carrying out the said development, the Authority may postpone the assessment of the development charge;

(b) where the application relates to the carrying out of any development in any land, the Authority may refuse to assess the development charge payable in respect thereof, unless it is satisfied that the applicant has an interest in the land sufficient to enable him to carry out such development, or that the applicant is able to obtain such interest and that the applicant will carry out the development within such period as the

Authority considers appropriate;

(c) where the application relates to the institution or change of any use of land, the Authority may refuse to assess the amount of development charge payable in respect thereof unless it is satisfied that the use will be instituted within such period as the Authority considers appropriate.

(5) The Authority shall deliver or serve a copy of such order on the applicant or the person liable for the development charge.

(6) Such order of assessment subject to the provisions of section 72, shall be final and shall not be questioned in any court.

*Appeals
against
assessment.*

72. (1) Any person aggrieved by an order of assessment made under section 71 may, within such time and in such manner, as may be prescribed, appeal to the Board.

(2) On an appeal made to the Board under sub-section (1), the Chief Town Planner shall, after giving a reasonable opportunity of being heard to the appellant and the Authority concerned, make a report to the Board.

(3) The Board may, after taking into consideration the aforesaid report, and if it deems necessary, after giving a reasonable opportunity of being heard to the appellant and the Authority concerned, pass such order as it deems fit.

*Develop-
ment Charge
to be a
charge on
land and to
be recover-
able as ar-
rears of land
revenue.*

73. (1) If any development of land is commenced or carried out or any use is instituted or changed without payment of the amount of the development charge assessed under the provisions of this Chapter, the amount of the development charge shall, subject to prior payment of the land revenue, if any, be a first charge upon the interest of the person so liable in the land on which development has been commenced or carried out or the use has been instituted or changed and also in any other land in which such person has any interest.

(2) The development charge shall be recoverable as arrears of land revenue.

CHAPTER - XI

PRIVATE AND JOINT SECTOR PARTICIPATION IN DEVELOPMENT

*Develop-
ment works
by promot-
ers.*

74. Subject to the provisions of this Act and the rules and regulations made thereunder, the Authority for the purpose of implementing the proposals contained in an approved plan, permit a promoter, to undertake or carry out a development work within the area of its jurisdiction.

*Power to
grant licence
to promoters.*

75. (1) The Authority may grant a licence to a promoter- national or international, to undertake or carry out a development work in its area of jurisdiction, on such terms and conditions as may be mutually agreed upon after following such procedure and on payment of such license fee as may be prescribed:

Provided that prior permission of the Government shall be required for granting license to an international promoter.

(2) Before granting such license under such-section (1), the Authority shall ensure that development charges as leviable under this Act have been paid or that no development charges are leviable under this Act.

*Application
for grant of li-
cence.*

76. (1) Any promoter intending to undertake or carry out any development work shall make an application in writing for grant of a licence to undertake or carry out such work to the Authority in such form accompanied by such documents and fee and in such manner as may be prescribed.

(2) The Authority may, after making such enquiry as it considers necessary, by an order in writing-

- (a) grant a licence in the prescribed form after the applicant has furnished to it a bank guarantee equivalent to ten percent of the estimated cost of the development work and has entered into an agreement with it containing such details as may be considered necessary including provisions for ensuring -
 - (i) that the development shall be within the framework of the approved plan and shall conform to the provisions of the development control rules and applicable building rules, bye-laws; and
 - (ii) that the time schedule within which the development work is to be completed shall be adhered to ;
- (b) or refuse to grant a licence after affording the applicant an opportunity of being heard.

(3) No licence shall be granted when the estimated cost of the development work exceeds;

- (a) rupees ten lakhs without the prior approval of the Chief Town Planner;
- (b) rupees twenty five lakhs, without the approval of the Government.

(4) The licence so granted shall be valid for a period of three years. It may, however, be renewed for reasons to be recorded in writing from time to time for a period not exceeding one year on payment of prescribed fee.

Additional provisions where cost of development work is to be realised in advance.

77. Where a development work envisages realisation in advance of the cost of development from the prospective allottees, the promoter shall deposit an amount equivalent to twenty five percent of the sum collected, from time to time, by him from the prospective allottees, within a period of ten days of its realisation, in a separate account to be maintained in a scheduled bank and pledged to the Authority. This amount can only be withdrawn on completion of the development work.

Provisions for economically weaker sections.

78. (1) Where a development work for which licence is granted envisages provision of developed plots or built-up space, such percentage of the plots or built-up space shall be reserved for economically weaker sections of the society, as may be mutually agreed, and the cost of development of such reserved developed plots or built-up space shall be fully or partly, as may be agreed, distributed over developed plots or the built spaces meant for allottees other than economically weaker sections.

(2) The developed plots or built-up space reserved for economically weaker sections of the society shall be allotted by the promoter to only those beneficiaries who are identified by the Authority, at such cost as may be mutually agreed.

Recovery of capital or maintenance cost of amenities.

79. Where a licence has been granted for providing or maintaining or both providing and maintaining any amenity, utility, service or facility, the Authority may permit the promoter to recover the capital and maintenance cost by way of collection of users charges as may be agreed upon in the manner prescribed under regulations.

Development works in joint - sector.

80. The Authority may enter into collaboration with a promoter or national or international agency to jointly undertake implementation of any development work within the framework of an approved plan on such terms and conditions as may be mutually agreed. Such collaboration may include provision for facilities including shelter for economically weaker sections or sharing of developed plots and built

spaces or sharing of profits:

Provided that where the collaboration is with an international agency, prior approval of the Government shall be necessary.

Rules for regulating development by private and joint sector.

81. The Government shall frame rules for regulating development works by private-sector and under joint-sector.

Reference to Arbitrator in case of dispute.

82. If any dispute arises out of any agreement entered into with the promoter by the Authority, it shall be referred to the Arbitrator appointed by the Government under the Arbitration Act, 1940.

CHAPTER -XII

FINANCE, ACCOUNTS AND AUDIT

Fund of the Authority and its application.

83. (1) The Authority shall have and maintain a separate fund called "development fund" to which shall be credited -

- (a) sum of money received from the Government or any other State, national or international agency, loans, advances, or otherwise for the performance of functions under this Act and for any other function which the Government may assign;
- (b) all development charges or other charges or fees received under this Act or rules or regulations made thereunder;
- (c) contribution from municipalities under section 90;
- (d) sum of money borrowed under section 122 from the market with the approval of Government by way of debentures, bonds and other means in accordance with the prescribed rules;
- (e) sum of money earned from remunerative projects by way of rent or otherwise and disposal of its assets;
- (f) sum of money earned from projects implemented under section 80;
- (g) increased stamp duty received under section 86;
- (h) charges for using agricultural land for building purposes under section 87;
- (i) users' charges received by the Authority from the disposal of land, buildings and other properties; and
- (k) any other sum of money received by the Authority from any other source for performing its functions.

(2) The development fund shall be applied towards meeting -

- (a) the expenditure incurred in the administration of this Act;
- (b) the cost of acquisition of land in the development area for the purpose of planned development;
- (c) the expenditure for development of land in the development area;
- (d) any expenses incurred by the Authority under this Act in connection with preparation of perspective plan, development plan and annual plan and planning and execution of projects and schemes unless expressly provided otherwise in this Act;
- (e) the expenditure for such other purposes as the Government may

- direct; and
(f) the expenditure for such other purposes not inconsistent with this Act.

(3) The development fund account of every Authority shall be opened and maintained in the current or savings account of the State Bank of India or any other nationalised bank. Such surplus amount of money out of the aforesaid fund, as may be determined by the Authority in this behalf, shall be invested in such manner as may be approved by the Authority, but such investment shall be only in Government approved securities.

(4) The Government may take such grants, advances and loans to the Authority as the Government may deem necessary for the performance of the functions of the Authority under this Act, and all such grants, loans and advances made shall be on such terms and conditions as the Government may determine.

Budget.

84. The Board and every Authority, shall prepare in such form and at such time every year, as may be prescribed, a budget in respect of the financial year next ensuing, showing their estimated receipts and expenditure, Such number of copies of the budget, as may be prescribed, shall be forwarded to the Government.

- (a) directly in the case of the Board;
(b) through the Board, in the case of the Authority.

Accounts and Audit.

85. (1) The Board and every Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance sheet in such form as may be prescribed.

(2) The accounts maintained under sub-section (1) shall be subject to audit annually by the Accountant General of the State and any expenditure incurred by him in connection with such audit shall be payable by the concerned Authority to the Accountant General.

(3) The Accountant General or any person appointed by him in connection with the audit of accounts under sub-section (2), shall have the same right, privilege, and authority in connection with such audit as the Accountant General has in connection with the Government accounts and in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the concerned Authority. The accounts as certified by the Accountant General or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Government -

- (a) directly in the case of the Board ;
(b) through the Board, in the case of the Authority.

Increase in duty on certain transfer of immovable property.

86. (1) The duty imposed under the laws for the time being in force in Sikkim in respect of any deed of transfer of immovable property shall, in the case of immovable property situated within the area under the jurisdiction of the Authority be increased by three percentum on the value of the property transferred or in the case of usufructuary mortgage on the amount secured by the instrument.

(2) All collections resulting from the said increase shall, after deducting incidental expenses, if any , be paid to the Authority at such time and in such manner as may be prescribed.

Charges for using agricultural land for building pur-

87. (1) If any land, located within the jurisdiction of the Authority, the presents use of which is recorded as 'agriculture' in the records of rights maintained by the Government and the owner of such land intends to construct a building or structure thereon for use as permissible in the development plan, the owner thereof shall before

- poses. applying for permission to construct such building under section 45 first apply to the concerned Authority for permission to use the land for the intended purpose.
- (2) The application under sub-section (1) shall be accompanied with a charge, which shall be equivalent to fifty percent of the difference in market value of the land assessed with its agricultural use and its market value with intended use, and such other documents, and details as may be prescribed.
- Contribution by the Authority to the Board, and the District Planning Committee.* 88. Every Authority at the beginning of the financial year shall contribute a sum equivalent to half percent of the total sum of money credited during the last preceding year to its development fund constituted under sub-section (1) of section 83, to the Board and another one and a half percent to the District Planning Committee.
- Levy of user's charges.* 89. (1) In order to recover fully or partly the capital expenditure and the cost of maintenance of utilities, amenities, services or facilities provided by the Authority, it may levy and collect a charge from the users, (hereinafter called the users' charge).
(2) The amount of users, charges to be levied and its manner of assessment and collection shall be such as may be prescribed under regulations.
(3) The Authority may assign, on such terms and conditions, as may be agreed, the task of providing and maintaining any utility, amenity, service or facility, within the area of jurisdiction, to any person or agency including an association or body of individuals whether corporate or not and permit them to collect such users' charges from such beneficiaries and subject to such terms and conditions as may be prescribed under regulations.
- Contribution by municipal bodies to the development fund.* 90. Every municipal body within the development area shall, at the beginning of the financial year, contribute from municipal fund, a sum not less than ten percent of its total receipts from all sources during the last preceding year to the development fund of the Authority, as the Government may specify from time to time.
- Annual reports.* 91. (1) The Board shall prepare every year on its activities, during that year and submit the report to the Government in such form on or before such date as may be prescribed and the Government shall cause a copy of the report to be laid before the State Legislature.
(2) The Authority, shall prepare every year a report on its activities during that year clearly specifying sector-wise physical targets achieved alongwith regular financial statements and submit the report to the Government and the Board in such form on or before such date, as may be prescribed.
- Pension and Provident fund.* 92. (1) The Board and the Authority shall constitute for the benefit of their whole time paid members, officers and other employees, in such manner and subject to such conditions, as may be prescribed, such pension and provident funds as it may deem fit.
(2) Where any pension or provident fund has been constituted, the Government may declare that the provisions of the General Provident Fund (Sikkim Services) Rules, 1984 and the Sikkim Services (Pension) Rules, 1990 shall apply mutatis mutandis.

CHAPTER - XIII

SUPPLEMENTAL AND MISCELLANEOUS PROVISIONS

Action by Government while issuing notification under sub-section (3) of section 1.

93. Simultaneously with the coming into force of the provisions of this Act in any area by notification under sub-section (3) of section 1 with effect from such date as may be specified therein, the Government shall frame a scheme determining -

- (a) the Government authorities or the development authorities, if any, or by whatever name called, constituted under any other law in force in the area, which shall cease to exist from the said date;
- (b) the transfer of all the officers and employees of the authorities as mentioned in clause (a) above to the concerned Authority, from the said date;
- (c) proportion of all properties, funds and dues which are vested in or realisable by the authorities mentioned in clause (a) which shall vest in or be realisable by Authority or authorities, as the case may be;
- (d) proportion of all liabilities which are enforceable against the authorities mentioned in clause (a) above which shall be enforceable by the authorities, as the case may be;
- (e) for the purpose of realising properties, funds and dues referred to in clause (c) above, the functions of the authorities mentioned in clause (a) above shall be discharged by the Authority.

Restrictions on use and development of land after declaration of regional planning area/development area.

94. (1) On or after the date on which the declaration of regional planning area under section 11 and development area under section 11, 21 of this Act is notified -

- (a) no person shall within the area included in the regional planning area or the development area, as the case may be, erect or proceed with any building work, remove, pull down, alter, make additions to or make any substantial repair to any building, part of building, a compound wall or any drainage work or remove any earth, stone or material, or sub-divide any land or charge the use of any land or building unless such person has applied for and obtained necessary permission from the Chief Town Planner or such other authority as may be desired by Government in the case of regional planning area and the Authority in the case of development area under its jurisdiction;
- (b) The Chief Town Planner or the Authority as the case may be, on receipt of such application, shall at once furnish the applicant with a written acknowledgement of its receipt and may, after an inquiry, either grant or refuse such permission or grant it subject to such conditions as it may think fit impose. If no decision is communicated to the applicant within three months from the date of such acknowledgement, the applicant shall be deemed to have been granted such permission;
- (c) If any person contravenes the provisions contained in sub-section (1) or sub-section (2), the Chief Town Planner or the Authority, as the case may be, may direct such person by notice in writing to stop any work in progress, and after making inquiry in the prescribed manner, remove, pull down, or alter any building or other work or restore the land in respect of which such contravention is made to its original condition;
- (d) Any expenses incurred by the Chief Town Planner or the Authority, as the case may be, under sub-section (3) shall be a sum due to them under this Act which may be recovered from the person in default or the owner of the plot as arrears of land revenue; and

- (e) No person shall be entitled to compensation in respect of any damage, loss or injury resulting from any action taken by the Chief Town Planner or the Authority under sub-section (1).

(2) Wherever the Government, after the declaration of the regional planning area under section 11 or the development area under section 21 but before the publication of the Map and the Register under section 31, is satisfied that in any regional planning area or development area or part thereof, the change of the land use or any building operation or any other operation as mentioned in sub-section (1) therein -

- (a) is likely to cause injurious disturbance of surface or any land or soil, or is considered detrimental to the preservation of the soil, prevention of landslips or protection against erosion; or
- (b) is likely to make it difficult to plan and develop the area in question in accordance with the provisions of this Act, the Government may, by notification published in the Official Gazette, freeze the existing land use, for a period not exceeding three years;
- (c) on the issuance of a notification under this sub-section-
 - (i) no person shall change the use of any land or carry out any development of land other than the change for the purpose of agriculture without the written permission of the Chief Town Planner in the case of the regional planning area and the Authority in the case of the development area; and
 - (ii) no local authority or officer or other authority shall, notwithstanding anything contained in any other law for the time being in force, grant permission for the change in use of land without the written permission of the Chief Town Planner in the case of the regional planning area and the Authority in the case of the development area;
- (d) any permission which the Chief Town Planner or the Authority, as the case may be, may grant under this sub-section shall be subject to such conditions and restrictions as may be imposed in this behalf by the Government.

Power of entry.

95. (1) The Chief Town Planner or an officer authorised by him or any officer authorised in this behalf by the Board or the Authority, as the case may be, may enter into or upon any land or building with or without assistants or workmen within the area under their respective jurisdiction under this Act for the purpose of -

- (a) making an enquiry, inspection, measurement or survey or taking levels or photographs of such land or building;
- (b) setting out boundaries and intended lines of works;
- (c) making such levels, boundaries and lines by placing marks and cutting trenches;
- (d) examining works under construction and ascertaining the course of sewers and drains;
- (e) digging or boring into the sub-soil;
- (f) ascertaining whether any land is being or has been developed in contravention of any provision of this Act or rules or regulations made thereunder; and
- (g) doing any other thing necessary for the efficient administration of this Act :

Provided that-

- (i) in the case of any building used as a dwelling house or upon any enclosed part of garden attached to such a building, no such entry shall be made without the consent of the occupier thereof. If no consent is given, entry can be made by giving